

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2012 Legislative Session, Legislative Day No. : August 14, 2012

Bill No.: 1226

Expiration Date: October 18, 2012

Introduced by: Mr. Bartlett, Mr. Hollis, Mr. Pack, Ms. Price

A BILL TO AMEND § 190-105, TALBOT COUNTY CODE “WIRELESS COMMUNICATION TOWERS” TO ADD A DEFINITION OF “TOWER, CONCEALED”; TO REQUIRE THAT CONCEALED TOWERS INCLUDE A CERTIFICATION FROM A MARYLAND LICENSED STRUCTURAL ENGINEER THAT THE TOWER IS DESIGNED TO WITHSTAND ALL DESIGN LOADS REQUIRED BY THE TALBOT COUNTY BUILDING CODE BY A MINIMUM OF 110%; TO AMEND THE MINIMUM SETBACKS REQUIRED FOR CONCEALED TOWERS; TO PROVIDE THAT LANDSCAPING AND FENCING REQUIREMENTS MAY BE WAIVED BY THE PLANNING COMMISSION; TO ELIMINATE THE REQUIREMENT THAT AN APPLICANT PROVIDE EVIDENCE SUBSTANTIATING THAT CONSTRUCTION OF A NEW WIRELESS COMMUNICATIONS TOWER SHALL NOT BE DETRIMENTAL TO THE USE, PEACEFUL ENJOYMENT, OR ECONOMIC VALUE OF NEIGHBORING PROPERTIES; TO AMEND THE REQUIREMENT SO THAT AN APPLICANT OBTAIN MAJOR SITE PLAN APPROVAL BEFORE THE SPECIAL EXCEPTION HEARING WITH THE BOARD OF APPEALS; TO PROVIDE THAT ONE PRIVATE AMATEUR (HAM) RADIO TOWER 75 FEET OR LESS IS PERMITTED AS AN ACCESSORY USE; AND GENERALLY RELATING TO WIRELESS COMMUNICATIONS TOWERS

By the Council: August 14, 2012

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, September 11, 2012 at 2:00 p.m. at the Bradley Meeting Room, Talbot County Court House, South Wing, 11 North Washington Street, Easton, Maryland 21601.

By Order


Susan W. Moran, Secretary

A BILL TO AMEND § 190-105, TALBOT COUNTY CODE “*WIRELESS COMMUNICATION TOWERS*” TO ADD A DEFINITION OF “*TOWER, CONCEALED*”; TO REQUIRE THAT CONCEALED TOWERS INCLUDE A CERTIFICATION FROM A MARYLAND LICENSED STRUCTURAL ENGINEER THAT THE TOWER IS DESIGNED TO WITHSTAND ALL DESIGN LOADS REQUIRED BY THE TALBOT COUNTY BUILDING CODE BY A MINIMUM OF 110%; TO AMEND THE MINIMUM SETBACKS REQUIRED FOR CONCEALED TOWERS; TO PROVIDE THAT LANDSCAPING AND FENCING REQUIREMENTS MAY BE WAIVED BY THE PLANNING COMMISSION; TO ELIMINATE THE REQUIREMENT THAT AN APPLICANT PROVIDE EVIDENCE SUBSTANTIATING THAT CONSTRUCTION OF A NEW WIRELESS COMMUNICATIONS TOWER SHALL NOT BE DETRIMENTAL TO THE USE, PEACEFUL ENJOYMENT, OR ECONOMIC VALUE OF NEIGHBORING PROPERTIES; TO AMEND THE REQUIREMENT SO THAT AN APPLICANT OBTAIN MAJOR SITE PLAN APPROVAL BEFORE THE SPECIAL EXCEPTION HEARING WITH THE BOARD OF APPEALS; TO PROVIDE THAT ONE PRIVATE AMATEUR (HAM) RADIO TOWER 75 FEET OR LESS IS PERMITTED AS AN ACCESSORY USE; AND GENERALLY RELATING TO WIRELESS COMMUNICATIONS TOWERS

KEY

Boldface..... Heading or defined term
Underlining..... Added to existing law by original bill
~~Strikethrough~~..... Deleted from existing law by original bill
Double underlining..... Added to bill by amendment
~~Double-strikethrough~~Deleted from bill by amendment
* * *Existing law unaffected

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that § 190-105, Talbot County Code, “*Wireless Communication Towers*” be amended as set forth below:

§190-208. Definitions

* * *

1 TOWER, CONCEALED — A wireless communication antenna structure designed to disguise its
2 function and architecturally integrated into a building form compatible with existing
3 surroundings and permitted land uses. Example forms include bell towers, steeples, silos and
4 other building forms that would conceivably be located or deemed appropriate at the site.

* * *

WIRELESS COMMUNICATIONS TOWER--A structure having the primary purpose of providing wireless communications services for telecommunications, television and radio broadcasting, including but not limited to a ground-mounted or otherwise supported structure with antenna(s) or other wireless communications equipment, if any, together with any guy wires and accessory structures. Wireless communications towers include, but are not limited to, lattice towers, monopole towers, ~~and~~ guyed towers, and stealth or camouflaged trees and flagpoles. A wireless communications tower does not include a tower ~~less than~~ 75 feet or less in height for mounting of an antenna operated by an amateur radio operator licensed by the FCC.

* * *

§190-113. Structure height

Structures shall comply with the following height limits.

Table V-1. Structure height

Type of structure	Maximum height	Additional requirements
A. Dwellings and agricultural structures. Includes ornamental towers and other design features.	40 feet	
B. Principal commercial, industrial or institutional structures.	40 feet, except 35 feet in Gateway Overlay Dist.	
C. Chimneys, church belfries or spires, conveyers, and private amateur (ham) radio and television antennas.	75 feet	<u>Minimum base zoning setback plus</u> One one additional foot in setback for each foot in height over 40 feet.
D. Fire towers, silos, hospitals and public monuments.	100 feet	<u>Minimum base zoning setback plus</u> One one additional foot in setback for each foot in height over 40 feet.
E. Grain elevators.	200 feet	<u>Minimum base zoning setback plus</u> One one additional foot in setback for each foot in height over 40 feet.

F. Antenna towers for essential communications; for radio and television broadcasting facilities and other non-essential communication; and for wireless communication (see Article III).	200 feet	Minimum required setback shall be 10 feet greater than the height of the tower, <u>except that, for concealed towers the minimum setback shall be base zoning setback plus one additional foot in setback for each foot in structure height over 40 feet. The height of a concealed tower shall not be greater than the distance from the base of the tower to the principal structure on an adjacent property.</u>
G. * * *		

* * *

18 §190-105. Wireless Communication Towers

19 A. Exemptions

20 Private amateur (ham) radio towers ~~less than~~ 75 feet or less are exempt from the
21 requirements of this section. See section 190-86 for specific land use regulations.

22 B. General requirements

23 The following requirements are applicable to all wireless communications towers
24 regardless of height or date of construction:

25 * * *

26 (3) The ground base of any wireless communications tower structure shall be
27 set back from any property line, road, or public recreation area a distance that is
28 the height of the tower plus 10 feet, except for concealed towers, which shall
29 comply with setback requirements set forth in Table V-1. Notwithstanding any
30 other section of this chapter this limitation shall not be subject to modification by
31 either a special exception or variance. Any icefall or debris from tower structural
32 failure shall be contained in the immediate tower area. Any accessory structures
33 shall comply with the minimum building setback requirements of the applicable
34 zoning district. These setback requirements may be reduced through a variance
35 application as provided for in Article IX.

36 * * *

37 (7) The wireless communications tower shall be designed to minimize adverse
38 visual and environmental impact (e.g., paint, camouflage, screening, stealth
39 technology, concealed towers, color, use of existing structures and natural

landscape, etc.). All equipment shelters shall be maintained in neutral shades consistent with the natural landscape.

* * *

(9) The wireless communications tower shall be either a self-supporting monopole or self-supporting lattice structure, except concealed towers, which include an alternate or supplemental structural design accompanied by certification from a Maryland licensed structural engineer that the proposed tower is designed to withstand all design loads required by the Talbot County Building Code by a minimum of 110%.

(10) The applicant shall submit a ~~licensed professional~~ landscaping plan prepared by a licensed professional with the site plan application which identifies existing vegetation and specifications, including species, size, and location, of all proposed plant materials to be utilized for buffering and screening of the wireless communications tower structure and equipment structures. A secure fence or enclosure, a minimum of eight feet in height, shall enclose the entire base of the wireless communications facility. All required plantings shall be kept in a live, healthy condition. Any plants not in a live, healthy condition shall be replaced by the ~~applicant-owner~~ to the satisfaction of the Planning Director. Landscaping and fencing requirements may be waived for concealed towers through a waiver petition approved by the Planning Commission in accordance with §190-186.

* * *

C. General application requirements.

All applications shall provide the following information:

* * *

(3) A copy of FCC license application or license number, date of issuance, and type of license (cellular, PCS, etc.) if applicable.

(4) A master report plan of applicant's current proposed communication network ~~for Talbot County~~, including an illustrative wireless communications map detailing existing and proposed wireless coverage, antenna sites and collocation sites.

* * *

(8) The wireless communications tower design ~~(self-supporting lattice or monopole).~~

* * *

F. Specific tower requirements (towers from 75 feet to less than 100 feet high)

The following requirements are applicable to all wireless communications towers from 75 feet to less than 100 feet high.

* * *

(8) Prior to ~~submittal-acceptance~~ of the application in accordance with §190-170B(2), the applicant shall:

(a) Notify all adjoining property owners by mail of the wireless communications tower proposal, including neighbors, across water bodies that are within 1,000 feet of the property containing the tower site.

(b) Erect a sign on the proposed site notifying the public of the applicant's intent to construct a wireless communications tower. Said sign design and size shall be approved by the Planning Director.

(c) Provide public notice in the local newspaper of the applicant's request for the new proposed wireless communications tower, identifying location, type, height, etc. at the applicant's expense. The newspaper notice shall include a map showing the proposed tower location, and be approved by the Planning Director.

~~(9) The applicant shall provide evidence substantiating that construction of a new wireless communications tower shall not be detrimental to the use, peaceful enjoyment, or economic value of neighboring properties. [Paragraphs 10,11,12, and 13 to be renumbered accordingly]~~

* * *

G. Specific tower requirements (towers 100 feet high or higher).The following requirements are applicable to all wireless communications towers 100 feet high or higher:

* * *

(6) The applicant must obtain major site plan approval prior to ~~applying for~~ the special exception hearing with ~~from~~ the Board of Appeals.

* * *

~~(11) The applicant shall provide evidence substantiating that construction of a new wireless communications tower shall not be detrimental to the use, peaceful enjoyment, or economic value of neighboring properties. [Paragraphs 12, 13, 14, 15, 16, 17, 18, and 19 to be renumbered accordingly]~~

(12) Prior to ~~submittal-acceptance~~ of the application in accordance with §190-170B(2), the applicant shall:

(a) Notify all adjoining property owners by mail of the wireless communications tower proposal, including neighbors, across water bodies that are within 1,000 feet of the property containing the tower site.

(a) Erect a sign on the proposed site notifying the public of the applicant's intent to construct a wireless communications tower. Said sign design and size shall be approved by the Planning Director.

(b) Provide public notice in the local newspaper of the applicant's request for the new proposed wireless communications tower, identifying location, type, height, etc. at the applicant's expense. The newspaper notice shall include a map showing the proposed tower location, and be approved by the Planning Director.

* * *

§ 190-86 Satellite Dishes and Private Amateur (ham) Radio Towers

The following table lists requirements for different types of satellite dishes and private amateur (ham) radio towers 75 feet or less, permitted as an accessory use.

Table II-2. Satellite Dishes and Private Amateur (ham) Radio Towers

Type	Maximum number per lot, plus standards if any
Residential-type UHF/VHF, radio, and compact satellite dishes, measuring less than 30 inches in diameter.	Three
Dishes 30 inches or greater in diameter.	One, located on the principal building or on the ground. If located on a building, the dish must be located on the roof and be set back from the edge of the roof a distance equal to at least its height above the roof. Dishes may not be placed in a front yard. Screening is required when a ground mounted dish is visible from a public right-of-way or surrounding property when viewed from ground level.
<u>Private amateur (ham) radio tower 75 feet high or less.</u>	<u>One. Minimum required setback shall be minimum base zoning setback plus one additional foot in setback for each foot in height over 40 feet.</u>

* * *

SECTION TWO: BE IT FURTHER ENACTED, that this ordinance shall take effect sixty (60) days from the date of its passage.

SECTION THREE: AND BE IT FURTHER ENACTED, that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this Ordinance are declared severable.

SECTION FOUR: AND BE IT FURTHER ENACTED, that, because the title is not a substantive part of the Bill, if this Bill is adopted as amended any such amendment authorizes revision of the Bill's title if required to conform the title to the text of the Bill as amended and finally enacted. Following enactment, the Bill's title, including any required revisions, and a summary of the Bill as finally enacted, including any amendments, shall be published once in a newspaper of general circulation in the County in compliance with Charter § 213 (c).

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PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. _____ having been published, a public hearing was held on _____.

BY THE COUNCIL

Read the third time.

ENACTED _____

By Order _____
Susan W. Moran, Secretary

Pack -

Hollis -

Bartlett -

Price -

Duncan -